

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LORI LEE CONLEY SHOEMAKER
Plaintiff

vs.

No. 02-CV-3210

LANCASTER LABORATORIES, INC. and
EDUCATORS MUTUAL LIFE INSURANCE
COMPANY
Defendants

NOTICE OF REMOVAL

To: Lori Lee Conley Shoemaker
c/o John L. Sampson, her attorney
33 North Duke Street
Lancaster, PA 17602

Please take notice that Defendant Educators Mutual Life Insurance Company (“Educators”) hereby removes this action from the Court of Common Pleas of Lancaster County, Pennsylvania, to the United States District Court for the Eastern District of Pennsylvania, pursuant to 28 U.S.C. § 1441. In support of this Notice of Removal, Educators states as follows:

1. On or about March 7, 2002, this action was commenced against Educators and Defendant Lancaster Laboratories, Inc. (“Lancaster Laboratories”) in the Court of Common Pleas of Lancaster County, indexed at No. CI-02-02145, by way of a Writ of Summons. A copy of the Writ is attached hereto, made a part hereof, and marked Exhibit A.

2. On March 25, 2002, counsel for Educators entered his appearance and obtained a Rule upon the Plaintiff to file a Complaint. A copy of Rule for a Complaint is attached hereto, made a part hereof, and marked Exhibit B.

3. Plaintiff filed her Complaint on April 25, 2002. The Complaint was served upon Educators’ counsel, by way of first class mail, and upon Lancaster Laboratories, several days or

weeks later. A copy of the Plaintiff's Complaint is attached hereto, made a part hereof, and marked Exhibit C.

4. This Notice of Removal is filed with this Court within 30 days of the filing of the Complaint, and within 30 days of service of the Complaint on both Defendants in this matter.

5. Plaintiff's Complaint seeks benefits under a group long-term disability policy ("Policy"). As alleged in Plaintiff's Complaint, specifically ¶ 5, the Policy under which Plaintiff seeks benefits is a policy issued by Educators to Shoemaker's employer, Lancaster Laboratories. Accordingly, the Policy is an ERISA-qualified employee benefit plan.

6. Plaintiff's claim here is one for improper handling of a claim for benefits or a claim for denial of benefits under an ERISA-qualified employee benefit plan. Accordingly, this Court would have original jurisdiction of such an action, without regard to the amount in controversy, under 28 U.S.C. § 1331, the federal question jurisdiction statute, and 29 U.S.C. § 1132(e)(1), a provision of ERISA.

7. Since Plaintiff's claim raises a federal question, relating to an alleged denial of benefits under an ERISA-qualified employee benefit plan, this matter may be removed to this Court pursuant to 28 U.S.C. § 1441, without regard to the citizenship or residency of the parties.

8. The Plaintiff identified in the complaint is an individual who resides in Lancaster County, Pennsylvania, and Educators and Lancaster Laboratories both have their principal place of business located in Lancaster County, Pennsylvania. Hence, venue in this district is proper.

9. Lancaster Laboratories consents to the removal of this action to federal court. Hence, all named defendants concur in the removal of this action to federal court.

10. Educators will promptly file a true and correct copy of this Notice of Removal with the Prothonotary of the Court of Common Pleas of Lancaster County, Pennsylvania.

BARLEY, SNYDER, SENFT & COHEN, LLC

Dated: _____

By: _____

George C. Werner, Esquire
Attorney for Defendant
Educators Mutual Life Insurance Company
126 East King Street
Lancaster, PA 17602-2893
Court I.D. 28757
717-299-5201

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document has been served this _____ day of _____, 2002, by first class mail, postage prepaid, upon:

John L. Sampson, Esquire
Appel & Yost LLP
33 North Duke Street
Lancaster, PA 17602-2842

Lancaster Laboratories, Inc.
2425 New Holland Pike
Lancaster, PA 17605-2425

BARLEY, SNYDER, SENFT & COHEN, LLC

By: _____
George C. Werner, Esquire
Court I.D. 28757
Attorneys for Defendant
Educators Mutual Life Insurance Company
126 East King Street
Lancaster, PA 17602-2893
717-299-5201